

SENATE BILL 1680

By Beavers

AN ACT to enact "The Health Care Freedom and
Affordable Care Act Noncompliance Act".

WHEREAS, the people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes, and nothing more; and

WHEREAS, the Tenth Amendment to the United States Constitution defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves; and

WHEREAS; Article I, Section 1 of the United States Constitution provides in pertinent part that "All legislative powers herein granted shall be vested in a Congress of the United States"; and

WHEREAS, The judicial decision of the United States Supreme Court upholding the constitutionality of the federal Patient Protection and Affordable Care Act of 2010 directly contravenes Article I, Section 1 of the United States Constitution because, in upholding the law by recharacterizing the act as a tax, even though Congress specifically refused to identify it as a tax, the United States Supreme Court legislated new law in violation of Article I, Section 1, of the United States Constitution; and

WHEREAS, the assumption of power that the federal government has made by enacting the federal Patient Protection and Affordable Care Act of 2010 interferes with the right of the people of the State of Tennessee to regulate health care as they see fit and makes a mockery

of James Madison's assurance in Federalist No. 45 that the "powers delegated" to the federal government are "few and defined," while those of the states are "numerous and indefinite"; and

WHEREAS, the Tenth Amendment to the United States Constitution provides that the United States federal government is authorized to exercise only those powers delegated to it in the Constitution; and

WHEREAS, Article VI, Clause 2 of the Constitution of the United States provides that laws of the United States are the supreme law of the land, provided that they are made in pursuance of the powers delegated to the federal government in the Constitution; and

WHEREAS, it is the stated policy of the Tennessee General Assembly that provisions of the federal Patient Protection and Affordable Care Act of 2010 grossly exceed the powers delegated to the federal government in the United States Constitution; and

WHEREAS, the provisions of the federal Patient Protection and Affordable Care Act of 2010, which exceed the limited powers granted to Congress pursuant to the United States Constitution, cannot and should not be considered the supreme law of the land;

WHEREAS, the Tennessee General Assembly has the absolute and sovereign authority to interpose and refuse to enforce the provisions of the federal Patient Protection and Affordable Care Act of 2010 that exceed the authority of Congress; and

WHEREAS, the right to be free from the commandeering hand of the federal government has been most notably recognized by the United States Supreme Court in *Printz v. United States* when the Court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program. It matters not whether policymaking is involved, and no case-by-case weighing of the burdens or benefits is necessary; such commands are fundamentally incompatible with our constitutional system of dual sovereignty"; and

WHEREAS, the Fourteenth Amendment of the United States Constitution provides that the people are to be free from deprivation of life, liberty, or property, without due process of law; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Health Care Freedom and ACA Noncompliance Act."

SECTION 2.

(a) No powers, assets, employees, agents, or contractors of the state, including any institution under the control of the University of Tennessee or the Tennessee board of regents, or any political subdivision, municipality, or other local government entity shall be used to assist in implementing the federal Patient Protection and Affordable Care Act of 2010, or any subsequent federal amendment to such act.

(b) The Tennessee general assembly is empowered to enact sanctions, fines, penalties, or otherwise to ensure compliance with subsection (a).

(c) The attorney general is authorized to bring suit in a state or local court of proper jurisdiction to enjoin any person or entity for a violation of this section

SECTION 3.

(a) As used in this section, "health care exchange" means health benefit exchange established by any state or political subdivision of a state, as provided for in the federal Patient Protection and Affordable Care Act of 2010.

(b) Neither the state of Tennessee nor any of its political subdivisions, including, but not limited to, counties, municipalities, school districts, and other entities of the state, shall establish a health care exchange for the purchase of health insurance.

(c) Neither the state of Tennessee nor any of its political subdivisions, including, but not limited to, counties, municipalities, school districts, and other entities of the state, shall participate in or purchase insurance from a health care exchange established by a nonprofit organization.

(d) A health insurance contract purchased or established in violation of this section shall be void and shall not be enforced by the courts of this state.

SECTION 4.

No agency, department, or other state entity, including, but not limited to, the department of health, department of human services, department of intellectual and developmental disabilities, department of mental health and substance abuse services, and the department of human resources, shall authorize an employee, contractor, vendor, or any other person acting on behalf of the agency, department, or entity to conduct or participate in an involuntary maternal, infant, and early childhood in-home visitation pursuant to Section 2951 of the federal Patient Protection and Affordable Care Act of 2010 and any subsequent amendment to such act.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.